

Approved by: \_\_\_\_\_

HAMZAH KHAN

Special Assistant United States Attorney

Before:

THE HONORABLE KIM P. BERG

United States Magistrate Judge

Southern District of New York

23 MAG-00083(KPB)

UNITED STATES OF AMERICA

-X

MISDEMEANOR  
COMPLAINT

-v-

:

Violation of  
38 C.F.R. 1.218(a)(5)  
38 C.F.R. 1.218(a)(5)

JAMES C. ASTA

:

Defendant

:

COUNTY OF OFFENSE:  
WESTCHESTER

:

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK, ss:

ANTHONY LUCIANO, being duly sworn, deposes and says that he is a Police Officer, assigned to the Department of Veterans Affairs Police Service, Franklin Delano Roosevelt Veterans Administration Hospital, Montrose, New York, which is located in the Southern District of New York, and charges as follows:

COUNT ONE

On or about August 10, 2022, at the Franklin Delano Roosevelt Veterans Administration Hospital, Montrose, New York, in the Southern District of New York, James C. Asta, the defendant, unlawfully, knowingly and willfully used loud, abusive, or otherwise improper language on Montrose Veterans to wit: the defendant was cursing and threatening other residents and pushed Mr. Amaury Guerrero from the back causing him to lose his balance and fall.

(38 Code of Federal Regulations, 1.218(a)(5))

COUNT TWO

On or about August 10, 2022, at the Franklin Delano Roosevelt Veterans Administration Hospital, Montrose, New York, in the Southern District of New York, James C. Asta, the defendant, unlawfully, knowingly and willfully used loud, abusive, or otherwise improper language on Montrose Veterans to wit: the defendant was yelling and cursing at other residents at a picnic table and then approached them and flung a lit cigarette at Mr. Robert Horn.

(38 Code of Federal Regulations, 1.218(a)(5))

The basis for the deponent's knowledge and for the foregoing charges are, in part, as follows:

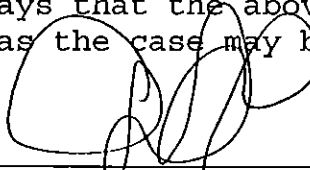
1. I am a Police Officer, assigned to the Department of Veterans Affairs Police Service, Franklin Delano Roosevelt Veterans Administration Hospital, Montrose, New York, which is located in the Southern District of New York.
2. Upon information and belief, on or about August 10, 2022, at approximately 9:30 p.m., a Code Green was called in Building #52 for a resident on resident assault. Officer Arius, and Officer Thomas and SGT Boyd responded to the scene along with the code team.
3. Officer Arius contacted the complainant, RN Anita Palau, who stated the defendant, a resident at the facility, had become agitated and started cursing and threatening fellow residents after an AA meeting. The defendant was asked to lower his voice and stop cursing. RN Palau stated that residents Mr. Amaury Guerrero and Mr. Robert Horn had reported that the defendant had assaulted them.
4. PO Arius then spoke with victim, Mr. Robert Horn, who stated he had been on the second floor by the elevator when he heard the defendant yelling and was very frantic. Mr. Horn stated he saw the defendant push Mr. Guerrero from the back. Mr. Horn further stated about an hour later, he was outside of Building 52, sitting at a picnic table when the defendant approached him and threw a lit cigarette at him.
6. PO Arius then contacted Mr. Guerrero who stated that while he was leaving the AA room, he overheard the defendant arguing with a female resident and two other residents. Mr. Guerrero stated he tried to deescalate the situation, when the defendant pushed him hard from the back

which caused him to loose his balance and fall. Mr. Guerrero was seen by a doctor and did not sustain any injuries.

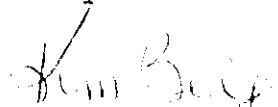
6. PO Arius then went and found the defendant in his room. He placed him under arrest and took him to the police services for booking and processing. At police services, the defendant was advised of his rights, which he waived and made a written statement. The defendant stated that he was at the elevator after the meeting and he felt people were attacking him for what happened in the meeting. The defendant further stated that Mr. Horn threatened him and Mr. Gross was telling him how he was going to beat him up. He stated Mr. Gross was going at him hard verbally and he did bump into Mr. Guerrero trying to get to Mr. Gross. He state he is friends with both guys and apologized later and shook hands. The defendant further stated that he does not get along with Mr. Horn and they generally stay away from each other. He stated Mr. Horn kept taunting him and saying he was going to get him kicked out. He stated Mr. Horn stated he was going to take him outside and take care of him. The defendant stated he went outside and was goading Mr. Horn and when Mr. Horn didn't follow him, he flicked his cigarette at him. The defendant stated he allowed his emotions to get the best of him.

7. The defendant was photographed, fingerprinted and issued two United States District Court Violation Notices for disorderly conduct (DCVN Number 9044381/SY53 and 9044382/SY53).

WHEREFORE, deponent prays that the above-named defendant be imprisoned or bailed, as the case may be.

  
\_\_\_\_\_  
ANTHONY LUCIANO  
VA Police Service

Sworn to before me this  
6th day of January, 2023

  
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HONORABLE KIM H. BERG  
United States Magistrate Judge  
Southern District of New York